

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

ZOILA IGLESIAS, individually and as next
friend of J. R. and K.R. infants,

Plaintiffs,

-against-

JOHN MATTINGLY, individually and as
Commissioner, HELEN COLON, individually
and as caseworker, CARYNE MORENCY ,
individually and as supervisor, TRACEY
LISSMORE, individually and as manager,
TAMIKA McCOY, individually and as
caseworker, FLORENCE UBA, individually
and as supervisor, LEAKE & WATTS
SERVICES, Inc., LEANNE CLARK PARRIS,
individually and caseworker, ZOLA VIOLA,
individually and as supervisor, COALITION
FOR HISPANIC FAMILY SERVICES, Inc., CITY
OF NEW YORK, and GLADYS CARRION, as
Commissioner,

Defendant.

-----X

**ANSWER TO AMENDED
COMPLAINT**

Civil Action No.
1595/08

**Defendant Demands
Trial by Jury**

Defendant LIANNE CLARKE PARRIS, INDIVIDUALLY AND CASEWORKER,
ZOLA VIOLA, INDIVIDUALLY AND AS SUPERVISOR, COALITION FOR HISPANIC
FAMILY SERVICES, INC., by its attorney, SMITH MAZURE DIRECTOR
WILKINS YOUNG & YAGERMAN, P.C. as and for its answer to the
complaint and as and for its cross-claims, upon information and
belief, sets forth as follows:

1. Denies any knowledge or information sufficient to form
a belief as to the truth of the averments contained in paragraphs
2, 3, 5, 6, 7, 10, 11, 12, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24,
25, 26, 27, 35, 36, 37, 38, 39, 40, 41, 42, 43, 45, 46, 47, 48, 49,

50, 51, 52, 53, 54, 55, 56, 57, 58, 60, 61, 63, 68, 91, 89, 90, 91, 92, 95, 96, 98, 99, 102, 103, 106, 107 and repeats and reiterates appropriate portions of 69, 81, 88, 94, 101, 105, 109 and 113..

2. Denies each and every allegations contained in the paragraphs of the complaint herein designated as: 1, 4, 8, 9, 28, 29, 30, 31, 32, 33, 34, 44, 59, 62, 64, 65, 66, 67, 70, 72, 73, 74, 75, 76, 77, 78, 79, 80, 82, 83, 84, 85, 86, 87, 93, 97, 100, 104, 108, 110, 111, 112, 115, 116 and repeats and reiterates appropriate portions of 69, 81, 88, 94, 101, 105, 109 and 113.

3. Admits the truth of the averments contained in paragraphs 13, 15, 31 and 33.

4. Deny and refer all questions of law to the court in paragraphs designated 114.

FIRST AFFIRMATIVE DEFENSE:

5. That the amount recoverable shall be diminished in the proportion which the culpable conduct attributable to the plaintiff(s) bears to the culpable conduct which caused the damages including but not limited to plaintiff's(s') contributory negligence and/or assumption of the risk.

SECOND AFFIRMATIVE DEFENSE:

6. Any damage allegedly sustained by the plaintiffs was the proximate result of an unforeseen and/or unforeseen negligent omission or conduct of intervening parties or superceding parties.

THIRD AFFIRMATIVE DEFENSE:

7. The plaintiffs' claim fails to state a cause of action upon which relief can be granted.

FOURTH AFFIRMATIVE DEFENSE:

8. The damages alleged in the Complaint resulted from the intervening and superceding negligence and/or conduct of a person or persons over whom the answering defendants had no control and for whose conduct the answering defendants are not liable.

FIFTH AFFIRMATIVE DEFENSE:

9. The answering defendants have not violated any rights, privileges or immunities under the Constitution or laws of the United States or the State of New York and have not otherwise violated plaintiff's Civil Rights.

SIXTH AFFIRMATIVE DEFENSE:

10. There is no basis in fact or law, upon which to base a direction that the answering defendants should be enjoined or restrained from conducting their business activities and, therefore, any restraining or enjoining order should not be directed towards these answering defendants.

WHEREFORE, defendant Lianne Clarke Parris, individually and caseworker, Zola Viola, individually and as supervisor, Coalition for Hispanic Family Services, Inc. demands judgment dismissing the plaintiff's complaint against it, together with the costs and

disbursements of this action, and further demands that, in the event this defendant is found liable to plaintiffs herein, said defendant, on the basis of apportionment of responsibility, have judgment over against the aforementioned co-defendants for all or part of the verdict or judgment that plaintiff may recover against this answering defendant, and judgment on the cross claims served herewith, together with the costs and disbursements of this action, and for any expenses incurred by it in the defense thereof, including attorneys' fees.

Dated: New York, New York
June 9, 2008

SMITH MAZURE DIRECTOR WILKINS YOUNG &
YAGERMAN, P.C.

By:


J. JAY YOUNG (4855)

For the Firm

SMITH MAZURE DIRECTOR WILKINS YOUNG &
YAGERMAN, P.C.

Attorneys for Defendant

Lianne Clarke Parris, individually and
caseworker, Zola Viola, individually and
as supervisor, Coalition for Hispanic
Family Services, Inc.

111 John Street, 20th Floor

New York, New York 10038-3198

(212) 964-7400

Our File No. UNG-00312/NYAP

TO:

LANSER & KUBITSCHKE
Attorney for Plaintiff
Zoila Iglesias, Individually and as next
friend of J.R. and K.R. infants
325 Broadway, Suite 201
New York, NY 10007
(212) 349-0900
File: Please Advise

MICHAEL A. CARDOZO, ESQ.
Attorney for Defendants
John Mattingly, Helen Colon, Caryne
Morency, Tracey Lissmore, and The City of
New York
Corporation Counsel for The City of New
York
100 Church Street, 4th Floor
New York, New York 10007-2000
(212) 788-0303
File: Please Advise

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

ZOILA IGLESIAS, individually and as next
friend of J. R. and K.R. infants,

Plaintiffs,

-against-

JOHN MATTINGLY, individually and as
Commisioner, HELEN COLON, individually
and as caseworker, CARYNE MORENCY ,
individually and as supervisor, TRACEY
LISSMORE, individually and as manager,
TAMIKA McCOY, individually and as
caseworker, FLORENCE UBA, individually
and as supervisor, LEAKE & WATTS
SERVICES, Inc., LEANNE CLARK PARRIS,
individually and caseworker, ZOLA VIOLA,
individually and as supervisor, COALITION
FOR HISPANIC FAMILY SERVICES, Inc., CITY
OF NEW YORK, and GLADYS CARRION, as
Commisioner,

Defendant.

-----X

CROSS-CLAIM

Index No. 1595/08
IAS Part
The Honorable Alvin K.
Hellerstein, U.S.D.J.

Defendants Lianne Clarke Parris, individually and
caseworker, Zola Viola, individually and as supervisor, Coalition
for Hispanic Family Services, Inc., by Smith Mazure Director
Wilkins Young & Yagerman, P.C., as and for a cross-claim against
defendants John Mattingly, Helen Colon, Caryne Morency, Tracey
Lissmore, Tamika McCoy, Florence Uba, Leake & Watts Services, Inc.,
Gladys Carrion and The City of New York, allege upon information
and belief as follows:

1. On the authority of *Dole v. Dow Chemical*, 30 N.Y.2d 143; *Rogers v. Dorchester*, 32 N.Y.2d 553; and *Kelly v. Diesel Construction*, 35 N.Y.2d 1; if plaintiff sustained the injuries and damages in the manner and at the time and place alleged and if it is found that these cross-claiming defendants are liable to plaintiff herein, then, upon said allegations of the complaint and upon the pleadings and evidence, said damages were sustained by reason of the sole, active, and primary carelessness and/or recklessness and/or negligence and/or affirmative acts of omission or commission and/or breach of contract and/or breach of warranty and/or strict liability by the co-defendants and these cross-claiming defendants are entitled to complete indemnification from any judgment over against co-defendants herein for all or part of any verdict or judgment that plaintiff may recover against said cross-claiming defendants and/or, in the event that judgment over is not recovered on the basis of full indemnification, then these cross-claiming defendants demand judgment over and against all the co-defendants herein on the basis of an apportionment of responsibility for the alleged occurrence for all or part of any judgment or verdict that plaintiff may recover against said cross-claiming defendants, and that all of the provisions of limitation of liability under the Terms of Article Sixteen of the C.P.L.R. are pleaded herein by these cross-claiming defendants, together with costs, disbursements and reasonable attorneys' fees.

WHEREFORE, defendants Lianne Clarke Parris, individually and caseworker, Zola Viola, individually and as supervisor, Coalition for Hispanic Family Services, Inc. demand judgment dismissing the complaint of plaintiff against them, together with the costs and disbursements incurred in the defense of this action and further demand that, in the event these defendants are found liable to plaintiff herein, said defendants, on the basis of apportionment of responsibility, have judgment over against the aforementioned co-defendants for all or part of the verdict or judgment that plaintiff may recover against these cross-claiming defendants, together with the costs and disbursements of this action incurred by it in the prosecution thereof, including attorneys' fees.

Dated: New York, New York
June 9, 2008

Yours, etc.,

SMITH MAZURE DIRECTOR WILKINS
YOUNG & YAGERMAN, P.C.

By: 

J. JAY YOUNG (4855)

Attorneys for Defendant

Lianne Clarke Parris, individually and
caseworker, Zola Viola, individually and
as supervisor, Coalition for Hispanic
Family Services, Inc.

111 John Street, 20th Floor

New York, New York 10038-3198

(212) 964-7400

Our File No. UNG-00312/NYAP

TO:

LANSER & KUBITSCHKE

Attorney for Plaintiff

Zoila Iglesias, Individually and as next
friend of J.R. and K.R. infants

325 Broadway, Suite 201

New York, NY 10007

(212) 349-0900

File: Please Advise

MICHAEL A. CARDOZO, ESQ.

Attorney for Defendants

John Mattingly, Helen Colon, Caryne
Morency, Tracey Lissmore, and The City of
New York

Corporation Counsel for The City of New
York

100 Church Street, 4th Floor

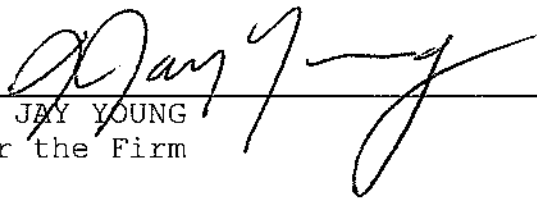
New York, New York 10007-2000

(212) 788-0303

File: Please Advise

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Answer to Amended Complaint and Cross-Claim was mailed by first class mail, postage prepaid this June 9, 2008, to all counsel of record as indicated on the service list below.



J. JAY YOUNG
For the Firm

SERVICE LIST

LANSER & KUBITSCHKE
Attorney for Plaintiff
Zoila Iglesias, Individually and as next friend of J.R. and K.R.
infants
325 Broadway, Suite 201
New York, NY 10007
(212) 349-0900
File: Please Advise

MICHAEL A. CARDOZO, ESQ.
Attorney for Defendants
John Mattingly, Helen Colon, Caryne Morency, Tracey Lissmore, and
The City of New York
Corporation Counsel for The City of New York
100 Church Street, 4th Floor
New York, New York 10007-2000
(212) 788-0303
File: Please Advise

Civil Action No. 1595/08

UNITED STATES DISTRICT COURT
COUNTY OF NEW YORK OF NEW YORK

ZOILA IGLESIAS, individually and as next friend of J. R. and K.R. infants,

Plaintiffs,

-against-

JOHN MATTINGLY, individually and as Commissioner, HELEN COLON, individually and as caseworker, CARYNE MORENCY, individually and as supervisor, TRACEY LISSMORE, individually and as manager, TAMIKA McCOY, individually and as caseworker, FLORENCE UBA, individually and as supervisor, LEAKE & WATTS SERVICES, Inc., LEANNE CLARK PARRIS, individually and caseworker, ZOLA VIOLA, individually and as supervisor, COALITION FOR HISPANIC FAMILY SERVICES, Inc., CITY OF NEW YORK, and GLADYS CARRION, as Commissioner,

Defendant.

-----X

ANSWER TO AMENDED COMPLAINT AND CROSS-CLAIM

**SMITH MAZURE DIRECTOR WILKINS
YOUNG & YAGERMAN, P.C.**

Attorneys for Defendant

Lianne Clarke Parris, individually and
caseworker, Zola Viola, individually and
as supervisor, Coalition for Hispanic
Family Services, Inc.

111 John Street, 20th Floor
New York, New York 10038-3198
(212) 964-7400
UNG-00312/NYAP

JJY/khs
824211.wpd